

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

February 4, 2021

Minutes of the meeting of the Workers' Compensation Industrial Council held virtually via Zoom on Thursday, February 4, 2021, at 1:00 p.m., Offices of the West Virginia Insurance Commissioner, 900 Pennsylvania Avenue, 9th Floor Conference Room, Charleston, West Virginia.

Industrial Council Members Present:

Kim Shin – via Zoom
Anna Dailey – via Zoom
Bengy Swanson – via Zoom
Patrick Smith – via Zoom
Jeff Mullins – via Zoom
Del. Mick Bates, Legislative Member – via Zoom
James A. Dodrill, Insurance Commissioner/Nonvoting Member – via Zoom

1. Call to Order

Commissioner James A. Dodrill called the meeting to order at 1:00 p.m.

2. Approval of Minutes

Commissioner Dodrill asked for a motion to approve the December 10, 2020 minutes.

Anna Dailey made the motion to approve the December 10, 2020 minutes. The motion was seconded by Jeff Mullins and passed unanimously.

3. Office of Judges' Report

No one presented the Office of Judges' Report; however, the report was circulated to the board members prior to today's meeting.

4. General Public Comments

There were no speakers and no comments.

5. Old Business

Election of Chairperson, Vice Chairperson and Secretary for the Industrial Council was discussed. Anna Dailey proposed a motion to elect the following:

Anna Dailey – Chairperson
Bengy Swanson – Vice Chairperson
Kim Shin – Secretary

Bengy Swanson seconded the motion to accept slate by acclamation and passed unanimously.

Commissioner Dodrill turned the meeting over to newly appointment Chairperson, Anna Dailey at that time.

6. New Business

- Commissioner Dodrill introduced the newly appointed Chief Administrative Law Judge of the Offices of Judges – Ted A. White, effective January 1, 2021. Mr. White is replacing former Chief Administrative Law Judge, Bradley Crouser.
- Erin Hunter, OIC Deputy Commissioner/General Counsel, discussed proposed amendments to Title 85, Series 17 *Electronic Submittal of Invoices and Receipt of Payments* and provided an explanation of how workers' compensation rules are legislative exempt, and instead proposed by the Insurance Commissioner and approved by the Industrial Council. Ms. Hunter provided an overview of the current rule regarding the electronic submission of invoices and receipt of payments and explained the reasoning for the proposed amendments to the rule. Ms. Hunter explained that the Insurance Commissioner had worked with the State Auditor's Office and the State Treasurer's Office on the proposed amendments and noted that the State Auditor and State Treasurer have made a broad effort to move payments to all state vendors to be made via electronic means. Ms. Hunter asked for permission to put the proposed amendments to Title 85, Series 17 out for public comment by publishing notice of the proposed amendments with the Secretary of State. Thereafter, a public hearing would be held on the proposed amendments at the next Industrial Council meeting in May. Thereafter, based upon the on public comments and further discussions of the Insurance Commissioner and Industrial Council, the rule amendments could be modified, the proposed rule amendments could be withdrawn, or the rule could be final filed with the Secretary of State and the amendments could become effective. Chairperson Anna

Dailey asked for a Motion to approve filing notice of the proposed amendments to the rule for public comment. Patrick Smith made a motion to approve filing notice of the proposed amendments to the rule for public comment with correction of a noted typographical error found in the draft. Bengy Swanson seconded the motion and it was passed unanimously.

- Delegate Mick Bates posed a question regarding proposed language in §85-17-7. Commissioner Dodrill affirmed the intent was to encourage private carriers and self-insured employers to develop electronic payment options, but that the OIC may not have the authority to require it. Delegate Bates agreed the intent is correct, but he wanted to ensure we are not allowing private carriers the opportunity to pay different amounts than what they are required to pay under the code. Ms. Hunter stated that was not the intent. The intent is in regard to the process for making payments, not to change the amounts paid. Chairperson Dailey suggested that if anyone has thoughts or ideas to amend the language, to provide them to Ms. Hunter, so that she can consider those as part of the comment timeframe.

7. Next Meeting

The next meeting is scheduled for Thursday, May 20, 2021 at 1:00 p.m.

8. Executive Session

Chairperson Dailey: The next item on the agenda is an Executive Session to discuss confidential matters related to self-insured employers.

These matters involve discussion of confidential information that meets exceptions under the *West Virginia Public Meetings Act*, and also involves matters that are exempted from disclosure under the *West Virginia Freedom of Information Act*. Therefore, it is appropriate that the discussions take place in Executive Session under the provisions of West Virginia Code §6-9A-4.

If there is any action taken regarding these specific matters it will be done upon reconvening of the public session. Is there a motion to go into Executive Session?

Patrick Smith made the motion to go into Executive Session. The motion was seconded by Kim Shin and passed unanimously.

The Industrial Council went into Executive Session to discuss self-insured matters.

Angela Shepherd, Director, Workers' Compensation Self-Insurance, presented the self-insured matters.

Chairperson Dailey called for a motion to go out of Executive Session.

Bengy Swanson moved to accept the motion to go out of Executive Session. The motion was seconded by Kim Shin.

Chairperson Dailey called the Industrial Council meeting back to order for the regular public session.

Chairperson Dailey entertained a motion to approve the list of self-insured renewals that have been presented to the Council.

Patrick Smith moved to accept the motion to approve the list. The motion was seconded by Bengy Swanson and passed unanimously.

9. Adjourn

There being no further business, Chairperson Dailey asked for a motion to adjourn. Patrick Smith made the motion to adjourn the meeting. The motion was seconded by Kim Shin and passed unanimously.